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C O N F I D E N T I A L SECTION 01 OF 02 KATHMANDU 000990

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E.O. 12958: DECL: 05/21/2012

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SUBJECT: VISIT WITH JAILED BHUTANESE REFUGEE S.K. PRADHAN

REF: A. KATHMANDU 425

[1](#)B. 01 KATHMANDU 1913

Classified By: Ambassador Michael E. Malinowski, Reasons 1.5 (b), (d).

[1](#)1. (C) Summary. In a meeting with Embassy visitors to his jail in southeastern Nepal, prominent Bhutanese refugee and human rights activist S.K. Pradhan protested his innocence in the case of another refugee leader's murder. Pradhan said he had nothing to gain from the man's death and did not understand what drove the late leader's associate to file a complaint against more than forty individuals, including himself. Pradhan has been treated well during his detention, a fact he ascribes to his jailers' belief that he is getting a raw deal. Problems with Nepal's civil code and criminal procedures have prevented him from enjoying due process, he asserted. Well-connected internationally, Pradhan has marshaled wide support, including from prominent Nepalis and even Government of Nepal (GON) officials. Pradhan is largely a prisoner of an ineffective legal system, though his case also reflects divisions within the Bhutanese refugee community that are a microcosm of the factionalism that afflicts Nepal's politics. End Summary.

[1](#)2. (SBU) Poloff and visiting DRL/PHD Officer Gianni Paz met jailed Bhutanese refugee and human rights activist S.K. Pradhan at the Jhapa District branch jail during a recent visit to southeastern Nepal. Pradhan was arrested September 19, 2001, and charged with conspiracy in the September 9, 2001 murder of R.K. Budhatoki, another refugee activist (Ref B). Pradhan's arrest came after an associate of Budhatoki filed a complaint naming 43 individuals as parties to the conspiracy (Ref A). Altogether eleven individuals remain in custody under this complaint.

Pradhan Protests Prosecution

[1](#)3. (C) Pradhan denied any involvement in Budathoki's murder, for which he said he was falsely implicated. Budathoki was not an enemy, he told us, and besides he would have nothing to gain from Budathoki's death. Altogether nine Bhutanese refugees were arrested; all now reside in the same jail as Pradhan. The killer had reportedly gone to India, Pradhan had heard. Pradhan said he tried - without success - to contact the person who filed the complaint. He did not know what drove the man, whose name is Poudel, to file a complaint against more than 40 people, including Pradhan himself: "that's the hundred million dollar question."

[1](#)4. (C) Relating the story of his confinement, Pradhan said that a group of men in plainclothes came to his house and told him he was under arrest. He asked the men to show identification and a warrant, both of which they refused to produce. Pradhan then contacted officers at his local police post, who came to the house and positively identified the men as police. Only after he was put in detention did he learn that a complaint had been filed against him.

Well-Treated in Jail

[1](#)5. (C) Pradhan described conditions in the jail as good, and added that jailers and fellow inmates alike treat him with respect. He had no health problems, and had not been beaten or tortured. He occupies a "special room," less crowded than the others - but still shared with seventeen other men. Special arrangements have been made to allow Pradhan visits - including conjugal visits - and telephone privileges. (Note: On two occasions in the past, Emboff was permitted to speak to Pradhan on the telephone (Ref A). End Note.)

[1](#)6. (C) Pradhan told us he believes he gets special treatment "because they think I am innocent." He added that he is well-behaved and does not cause trouble. His main complaint is that he is only allowed to write in Nepali, which is not his best language. His outgoing letters are censored. Nepali human rights activists had visited him in the jail, including Sushil Pyakurel, a member of the Government's Human Rights Commission. Pradhan has access to a jail library, including works on Nepali law, and to

English-language newspapers.

Sees Shortcomings in Legal System

17. (C) Having read up on Nepal's legal system while in jail, Pradhan claimed to have found problems with both Nepal's criminal procedures and civil law. Under the civil law, Pradhan said, an alien can be arrested on a simple charge, without evidence, and be imprisoned until trial. Pre-trial investigations can take years. (Note: Under Nepali law aliens are not eligible for bail.) He added that he had not been afforded due process. He had no opportunities to examine the evidence against him or even to ask a judge for permission to see it. During the hearings on his case held to date, he had not once been allowed to speak, he said. In fact, the only time he was allowed to state his case was immediately after his arrest, when a police officer took his statement.

World Travelers Garner International Sympathy

18. (C) In recent years Pradhan has been a regular on the international human rights circuit, including at UNCHR sessions in Geneva. Just before his arrest he attended the World Conference Against Racism (WCAR) in Durban, South Africa. Previously a civil servant in Bhutan, Pradhan earned an M.P.A. at Penn State and also studied in India and the U.K. Pradhan has been able to marshal his international contacts in support of efforts to gain his release. Members of Nepal's elite and even government officials have voiced disbelief that Pradhan was involved in the murder. The Chief District Officer for Jhapa stated that the murder of Budathoki and subsequent prosecution of S.K. Pradhan "must be a conspiracy carried out by the Bhutanese government."

Comment

19. (C) Were Pradhan not a refugee, he would have been able to walk free on bail soon after his arrest. Nepali law does not afford bail to foreigners. Moreover, a convoluted and opaque legal process has prevented Pradhan from responding to the complaint against him in a timely and meaningful fashion. Most Nepalis share Pradhan's despair about their courts' ability to dispense justice. Even so, to some degree Pradhan's predicament is also a result of the factionalism that afflicts Nepali society. The politics of the Bhutanese refugee camps - where nearly all the residents are ethnic Nepali - mirror those of Nepal itself, and Pradhan has apparently been the victim of another faction's desire to pull him down a notch.

MALINOWSKI